

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

COMMODITY FUTURES TRADING
COMMISSION and SECURITIES
EXCHANGE COMMISSION,

ORDER

Plaintiffs,

v.

20-cv-075-wmc & 20-cv-076-wmc,
Consolidated

EDWARD S. WALCZAK.

Defendant.

On March 2, 2022, the court held a telephonic conference to discuss the consolidation of cases *Commodity Futures Trading Commission v. Walczak*, 21-cv-075 and *Securities Exchange Commission v. Walczak*, 21-cv-076. In the interest of judicial economy and due to the substantial overlap between the cases, both with respect to the material facts and legal elements of the alleged claims, the court has decided to consolidate the two cases for purposes of trial. The court issues the following order, consistent with its oral rulings during the course of that conference, including the scheduling for the new consolidated proceedings.

ORDER

IT IS ORDERED that:

- 1) Cases *Commodity Futures Trading Commission v. Walczak*, 21-cv-075 and *Securities Exchange Commission v. Walczak*, 21-cv-076 are CONSOLIDATED.
- 2) Trial for the consolidated case will begin on April 11, 2022, with a final pretrial conference scheduled for March 24, 2022, at 10 a.m. by video conference. Exhibit lists should be filed with the court by March 25, with objections to exhibits due on or before March 28.

- 3) If necessary, the remedies phase of the trial will occur on June 6, 2022, with trial briefs from the plaintiffs due on May 2 and defendant's response due on or before May 9.
- 4) Plaintiff SEC has until March 9, 2022, to respond to defendant's motion for reconsideration in *SEC v. Walczak*, 20-cv-076 (dkt. #91), focusing on the issues identified by the court at the conference.
- 5) Defendant has until March 9, 2022, to address the specific question of issue preclusion raised in the CFTC's motion for reconsideration (dkt. #81) in *CFTC v. Walczak*, 20-cv-076.
- 6) Each side may have until March 9, 2022, to provide the court with the names of up to three potential neutral experts with the knowledge and ability to educate a lay jury about the investment instrument at issue in this case.
- 7) Plaintiff SEC may have until March 11, 2022, to provide defense counsel with a redline of suggested revisions to the Joint Proposed Jury Instruction Regarding Financial Concepts (dkt. #80) in *CFTC v. Walczak*, 20-cv-75. The parties should then promptly meet to confer with the option of submitting, jointly or separately, streamlined versions of all proposed jury instructions to the court by March 18, 2022.

Entered this 3rd day of March, 2022.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge